

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Wireline Competition Bureau Seeks Comment on	)	
United States Telecom Association's Petition for	)	
Waiver	)	
	)	
	)	

To: The Commission

**COMMENTS OF CTIA®**

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**I. INTRODUCTION AND SUMMARY**

CTIA<sup>1</sup> encourages the FCC to grant USTelecom's request for waiver of the effective date of the new Lifeline eligibility requirements for qualifying low-income consumers.<sup>2</sup> CTIA supports the Commission's decisions to streamline the Lifeline eligibility rules and develop a National Lifeline Eligibility Verifier (National Verifier),<sup>3</sup> and USTelecom's Petition will

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<sup>1</sup> CTIA ([www.ctia.org](http://www.ctia.org)) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21<sup>st</sup> century connected life. The association's members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry's voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry's leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

<sup>2</sup> Petition of USTelecom for Waiver of Lifeline Eligibility Rules, WC Docket No. 11-42 (filed Oct. 3, 2016) ("Petition"). *See also Wireline Competition Bureau Seeks Comment on United States Telecom Association's Petition for Waiver*, WC Docket No. 11-42, Public Notice, DA 16-1144 (rel. Oct. 6, 2016).

<sup>3</sup> *Lifeline and Link Up Reform and Modernization, et al.*, WC Docket Nos. 11-42 *et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962 (2016) ("*Lifeline Broadband Order*").

advance that effort by providing a temporary waiver of the rules to allow states to conform their own eligibility rules to the new federal rules will be in the best interest of equity and the public.

USTelecom's petition describes the inconsistency that will emerge on December 2, 2016 between the Commission's new eligibility requirements and existing rules for Lifeline eligibility in 27 U.S. jurisdictions.<sup>4</sup> Although states may be working to harmonize their own rules with the new federal rules, it appears unlikely that all states will be able to complete this process by December 2, 2016. By granting USTelecom's petition for waiver, the Commission will smooth the transition to the new eligibility rules and avoid severing the link between federal Lifeline and existing state eligibility verification programs. Granting USTelecom's petition for waiver will also serve the public interest by minimizing low-income consumer confusion and reflect the Commission's shift away from provider responsibility for verifying low-income consumer eligibility while enabling a more seamless transition to the National Verifier.

## **II. THE REQUESTED WAIVER WILL SERVE THE PUBLIC INTEREST AND PERMIT MORE EFFECTIVE IMPLEMENTATION OF THE COMMISSION'S LIFELINE POLICIES.**

The Commission may waive its rules for "good cause shown."<sup>5</sup> A waiver is appropriate "if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."<sup>6</sup> In considering waiver requests, the Commission may "take into account considerations of hardship, equity, or more effective implementation of overall policy."<sup>7</sup>

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<sup>4</sup> Petition at 2-5.

<sup>5</sup> 47 C.F.R. §§ 1.3; *see also* 47 C.F.R. § 1.925(b)(3).

<sup>6</sup> *Northeast Cellular Tel. Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990). *See also* 47 C.F.R. § 1.925(b)(3)(i).

<sup>7</sup> *See WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) ("WAIT Radio"). *See also Request for Review of the Decision of the Universal Service Administrator by Tekoa Academy of Accelerated Studies*, Order, 23 FCC Rcd 15456, 15458 ¶ 5 (WCB 2008).

Good cause for a waiver is presented in this case. The transition to the new Lifeline eligibility rules presents unique, one-time challenges, creating special circumstances where a waiver is warranted. Further, a waiver will serve the public interest. As discussed in more detail below, waiver will avoid consumer confusion and unnecessary hardships to carriers and will allow for more effective implementation of the Commission's Lifeline policies, including streamlined eligibility, a National Verifier, partnership with the states, and other Lifeline policies.

**A. Granting USTelecom's Waiver Will Smooth the Transition to the National Verifier with Streamlined Lifeline Eligibility Criteria Consistently Applied at the Federal and State Levels.**

In the *Lifeline Broadband Order*, the Commission took the important step of streamlining the eligibility rules in order to facilitate the transition to a National Verifier.<sup>8</sup> In doing so, the *Lifeline Broadband Order* also described the important role of state eligibility verification programs towards the development and operations of the National Verifier.<sup>9</sup> USTelecom's petition for waiver indicates that many states have rules for state eligibility verification programs that currently differ from those the FCC ultimately adopted.<sup>10</sup> Although states are working to align their programs with the new federal rules, CTIA agrees that consistency between the

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<sup>8</sup> *Lifeline Broadband Order*, 31 FCC Rcd at 4021-40 ¶¶ 167-216.

<sup>9</sup> *Id.* at 4014 ¶ 142.

<sup>10</sup> Petition at 2-3 (noting that state eligibility programs will not be aligned with the FCC's new rules upon the Dec. 2, 2016 effective date, because state eligibility programs may include Low Income Home Energy Assistance Program (LIHEAP), Temporary Assistance for Needy Families (TANF), and National School Lunch Program (NSLP), and do not include Veterans and Survivors Pension Benefit).

Commission's rules and various state eligibility programs will not likely be completed by December 2, 2016.

A temporary waiver of the new Lifeline eligibility rules will smooth the transition to the new federal eligibility regime by giving affected states the time necessary to conform their relevant eligibility programs. USTelecom's petition notes that conforming state eligibility programs with the FCC's new Lifeline eligibility rules will require statutory changes in 3 states, rule changes in 15 states, and both statutory and rule changes in 6 states.<sup>11</sup> By allowing these state eligibility programs the appropriate time to sync up with the FCC's rules, the Commission can further support the development of a National Verifier that will likely rely heavily on these state eligibility programs. Forcing a premature schism between state eligibility programs and the FCC's rules would disserve this goal. For this reason, CTIA agrees that granting the temporary waiver USTelecom proposes would serve the public interest.

**B. Granting USTelecom's Waiver Will Prevent Confusion Among Low-Income Consumers.**

A temporary waiver to allow state eligibility programs to align with the FCC's new rules also will help prevent confusion among low-income consumers. As the Petition observes, absent a waiver, low-income consumers in the affected states will face different eligibility requirements for state and federal Lifeline programs.<sup>12</sup> Low-income consumers could suddenly qualify for only federal support, only state support, or qualify under different programs to receive both state and federal support.

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<sup>11</sup> Petition at 3-4.

<sup>12</sup> Petition at 3-4.

The federal and state Lifeline rules, requirements, and forms are already complicated enough for low-income consumers to navigate.<sup>13</sup> A disconnect between state and federal programs would only multiply this effect. Further, confusing qualification procedures would only dissuade eligible low-income consumers from applying for and receiving the benefits of Lifeline. It therefore will serve the Commission’s goal of increasing eligible low-income consumer participation in Lifeline to temporarily waive the eligibility rules to give states time to conform their programs to the new federal rules.

**C. Granting USTelecom’s Waiver Will Advance the Federal-State Partnership on Lifeline.**

As noted above, the Commission has indicated its intention to continue to work in partnership with states in connection with Lifeline, and to leverage state eligibility verification programs towards the development of a National Verifier.<sup>14</sup> As the Order observes, state Lifeline support programs “devot[e] resources designed to help close the affordability gap for communications services.”<sup>15</sup> Giving the states time to bring the eligibility rules for their state-specific programs into conformity with the FCC’s rules will advance these goals and preserve the continuity of state-federal cooperation on Lifeline. For this reason, too, the Petition should be granted.

**D. Granting USTelecom’s Waiver Will Reduce Burdens on Providers and Hasten the Transition to a National Verifier.**

USTelecom’s petition correctly describes the significant burdens and costs that carriers would have to shoulder as a result of the differences that will emerge, absent a waiver, between

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<sup>13</sup> Petition at 4.

<sup>14</sup> *Lifeline Broadband Order*, 31 FCC Rcd at 4014 ¶ 142.

<sup>15</sup> *Id.* at 4067 ¶ 287.

state and federal eligibility rules in 27 states.<sup>16</sup> For example, in states where there is an existing state eligibility verifier, providers do not currently verify subscriber eligibility. If carriers no longer can rely on the state verifier starting December 2, providers would have to implement independent procedures to verify customers' eligibility under the federal rules. Even in states without a state eligibility verifier, however, providers' verification efforts would become significantly more burdensome as they would have to administer separate eligibility verification procedures and forms for the respective state and federal programs. Moreover, provider efforts develop Lifeline eligibility verification procedures in these states would be wasted once states conform their programs to the FCC's rules.

Notably, providers would have to continue or develop anew first-line responsibility procedures for verifying low-income consumer eligibility for Lifeline if providers cannot rely upon state eligibility verification programs that use criteria that are inconsistent with the federal rules. Effectively requiring providers to create separate eligibility verification procedures for this reason is inconsistent with the Commission's basis for establishing a National Verifier. Rather than perpetuating providers' responsibility for verifying the eligibility of low-income consumers for Lifeline, a National Verifier encourages providers to focus on serving low-income consumer needs. As noted above, however, allowing the new eligibility rules to go into effect with knowledge those rules will create inconsistencies with state eligibility programs will thwart the Commission's intent to leverage state eligibility verification programs towards the development of a National Verifier.

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<sup>16</sup> Petition at 2-3; 9-10.



Thus, CTIA believes the public interest will be served by granting USTelecom's petition for waiver by reducing costs and burdens on providers and advancing the goal of implementing the National Verifier.

### **III. CONCLUSION**

For all of the foregoing reasons, USTelecom's petition should be granted.

Respectfully submitted,

**CTIA**

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